

MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF SANFORD
SANFORD, NORTH CAROLINA

The City Council met at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Tuesday, December 2, 2014, at 7 P.M., in the Council Chambers. The following people were present:

Mayor T. Chet Mann
Council Member Byron Buckels
Council Member Jimmy Haire
Council Member Charles Taylor
Council Member Rebecca Wyhof
City Manager Hal Hegwer

Mayor Pro Tem James Williams
Council Member Sam Gaskins
Council Member Norman Charles Post, III
City Clerk Bonnie Davis
City Attorney Susan Patterson

Mayor Mann called the meeting to order. Council Member Jimmy Haire delivered the invocation. The Pledge of Allegiance was recited.

PUBLIC COMMENT

No citizen signed up to speak.

APPROVAL OF AGENDA

Mayor Mann explained that we need to remove the item under Public Hearing: Hawkins Avenue 8-Inch Sewerline Extension and Consider Adoption of Resolution Directing that the Project be Undertaken for Hawkins Avenue Sewer Line Extension and add two items to the Regular Agenda: (10E) Resolution Approving the City of Sanford Fund Balance Policy and (10F) Closed Session.

Council Member Gaskins made the motion to approve the agenda as amended. Seconded by Council Member Buckels, the motion carried unanimously.

CONSENT AGENDA

Approval of City Council Meeting Minutes Dated November 4, 2014—(Filed in Minute Book 82)

Approval of City Council Meeting Minutes (Citizens Academy) Dated November 18, 2014—(Filed in Minute Book 82)

Council Member Gaskins made the motion to approve the consent agenda. Seconded by Council Member Buckels, the motion carried unanimously.

CASE FOR PUBLIC HEARING

Public Hearing on Hawkins Avenue 8-Inch Sewerline Extension – (Exhibit A)

This item was removed from the agenda.

- Consider Adoption of Resolution Directing that the Project be Undertaken for Hawkins Avenue Sewer Line Extension – (Exhibit)

This item was removed from the agenda.

DECISIONS ON PUBLIC HEARINGS

- A. Consideration of a proposed text amendment to the UDO to remove all references to Cluster Subdivisions, specifically from Section 4.3.1 Purpose Statements in the R-20, R-14, R-12SF, and R-10 general use zoning districts.
- B. Consideration of a proposed text amendment to Section 10.2, Subsection 10.2.8 (10.2.8.2) Signage in Shopping Centers and Superstores to remove the Color standard as a required element of a common signage plan in Shopping Centers/Superstores in excess of 25,000 square feet.
- C. Consideration of a proposed text amendment to Section 5.37 Free Standing Ice Vending Units of the UDO to clarify those ice machines 7'W X 10'D and smaller in size are considered ice vending machines and shall be permitted as an accessory use in the NC, C-1, C-2, HC, LI and HI zoning districts.
- D. Consideration of a proposed text amendment to Table 4.6-1 Permitted Use Matrix of the UDO to revise the land use "Day Care Facility, Adult" by placing an "S/D" in the RA, RR, R-20, R-14, R-12SF, R-12, R-10, R-6, and MF-12 district to indicate that the use will be permitted as a Special Use with Development Standards in all residential districts.
- E. Consideration of a proposed text amendment to Article 5 of the UDO to create a new Section 5.38 in order to add regulations and design standards for the land use "Day Care Facility, Adult".
- F. Consideration of a proposed text amendment to Appendix A. Definitions of the UDO to add definitions for an Adult Day Care Center, Adult Day Care Home and Adult Day Care Program.
- G. Consideration of a proposed text amendment to Table 4.6.-1 Permitted Use Matrix of the UDO to add a new use "Solar Collector Facility" and further indicate that the use shall be permitted as a Special Use with Development Standards in the RA, RR, R-20, R-14, R-12SF, R-12, MF-12, NC, C-1, C-2, O & I, LI and HI zoning districts.
- H. Consideration of a proposed text amendment to Article 5 of the UDO to create a new Section 5.39 in order to add regulations and design standards for the land use "Solar Collector Facility".

Community Development Director Marshall Downey explained that he was going to address Items A through H, which are all amendments to the Unified Development Ordinance. These items were presented to Council on November 18 and the Planning Board recommended unanimously to approve the amendments. However, Items G and H relate to the Solar Farm Collector Facility. Mr. Downey referred to an email (Exhibit B) he sent to Council earlier. These amendments have been presented to Lee County and the Town of Broadway. When staff went through the process, one issue that was presented was the concern about a funding mechanism or a financial guarantee if one of the solar collector facilities was abandoned. There is information in the amendment dealing with that type situation; however, there was no financial guarantee in the language associated with that. At the Lee County Board of Commissioners meeting, staff recommended moving forward with the amendment as proposed and come back at some future point and modify the language again with the guarantee language after research. Staff has been researching this information but we do not feel comfortable at this time making that change. The other option is to table the item until we get that new language added to it and make it a complete package to look at. The commissioners decided to table the item

and did not take any action on the proposed amendment and look at the new language to deal with – the financial guarantee. In order to be consistent, staff is recommending to the City of Sanford and Town of Broadway to table this item.

Council Member Post how long would it take to get this draft. Mr. Downey said that Zoning Administrator Amy McNeill has found two counties that are doing this – Pasquotank and Catawba Counties. We are trying to make sure we are not creating more problems than we are solving; if that is something the industry is not doing. Ms. McNeill attended a workshop that was sponsored which brought these changes to Council; it was not included in the language as the best management practices.

Council Member Gaskins stated that from the email exchanges from Mr. Downey and counsel, we do have a precedent with the removal of cell towers. Mr. Downey replied that is correct; it is the most common example – it is more of an infrastructure type situation and we do having bonding mechanism with removal. Mr. Gaskins asked if there would be any reason to create something new or would that suffice. Mr. Downey stated that if they can find evidence that they can secure those types of bonds, we would probably use something along the same lines.

Staff's recommendation is to table Items G and H. Attorney Patterson stated that Council may want to table Items G and H first and then pass the ordinance with the removal of the language. Council Member Williams made the motion to table Items G and H. Seconded by Council Member Taylor, the motion carried unanimously.

- Consider Ordinance Amending the City of Sanford Unified Development Ordinance – (Exhibit C)
Council Member Gaskins made the motion to approve Items A through F and strike the language of G through H. Seconded Council Member Post, the motion carried unanimously.

Application by Fred Thomas “Tommy” Smith III on behalf of Smith Residential Builder LLC - seeking a Subdivision Exception pursuant to Section 6.3.6 of the Subdivision Ordinance to allow a waiver on a portion of a buffer yard that is required when a residential subdivision abuts a thoroughfare. Concurrent with the subdivision exception request, the applicant is seeking approval of a preliminary plat for “McNeill Crossing”, a proposed 13-lot residential subdivision to be located on McNeill Road, beginning at the northwest corner of McNeill Road and Hawkins Avenue. The parcel of land also abuts the US 421 Bypass; therefore a Class D buffer yard is required to be planted along the perimeter of the subdivision where abutting the thoroughfare. The property is depicted on Lee County Tax Maps 9643.02 and 9644.04, Tax Parcel 9644-50-9042. It is also the same property depicted on a map for Railroad Town LLC, recorded in Plat Cabinet 2014, Slide 47, Lee County Registry of Deeds. – (Exhibit C)

Design Review Coordinator Amy McNeill advised that the Planning Board considered this item at its last meeting and voted to approve this subdivision exception as part of the preliminary plat approval, as it appears reasonable and in the public interest based on the information and conditions as presented in the formal request, such as the elevation difference and the existing natural vegetation, in conjunction with the narrow width of the existing tract of land and the fact that the plat complies with all other technical requirements.

Council Member Taylor said that he has met with Mr. Smith and spoke with him on the telephone. Mr. Taylor stated that he is concerned about the noise and pollution because he lives in Hawkins Run and he also hears it from Fairway Woods. Mr. Taylor explained that he agrees with what Mr. Smith is trying to do and preserve the natural vegetation that is there now and incorporate it into his design.

Mr. Taylor said that he wanted to be put on record regarding the problem with down-shifting of tractor trailers. At some point, we may want to look at some type of ordinance in place to eliminate downshifting. It creates a huge noise pollution and it resonates within the neighborhoods when trucks are entering an intersection and they shift down with a clutch. At some point, we may need to come back and revisit this especially as we develop corridors around Sanford. We may need to look at some time of language to prohibit that.

- Consider Approval of a Subdivision Exception and Preliminary Plat for McNeill Crossing Subdivision

Council Member Post made the motion to approve the subdivision exception and preliminary plat for McNeill Crossing Subdivision. Seconded by Council Member Gaskins, the motion carried unanimously.

Application by Dennis A. Richter on behalf of Narenc Development, LLC and Solterra Partners, LLC - to rezone 203.50 +/- acres, comprised of twelve adjoining vacant lots located south of W. Garden Street and east of Fire Tower Road to the Balsam, Elm, Sweetgum and Sandifer 4 Solar Farms Conditional Zoning District to allow for the development of a group of four solar farms. Nine of the lots are zoned Residential-Mixed (R-12) and are either landlocked or have frontage on W. Garden Street or Fire Tower Road. Three of the lots are zoned Residential Single-family (R-20) and have frontage on W. Garden Street. The property is the same as depicted on Lee County Tax Maps 9642.03, 9642.04, 9641.01 and 9641.02 as Tax Parcels 9642-82-0492, 9642-71-9787, 9641-59-7682, 9642-40-9338, 9642-62-1683, 9642-41-8740, 9642-41-8090, 9642-61-2942, 9642-72-4503, 9642-42-9338, 9642-40-4159 and 9642-62-0333 Lee County Land Records. – (Exhibit D)

Design Review Coordinator Amy McNeill explained that this is a request to rezone a little over 200 acres, comprised of twelve adjoining vacant lots located south of W. Garden Street and East of Fire Tower Road to a conditional zoning district to allow the development of a group of four solar farms. The Planning Board discussed this rezoning application at its November 18, 2014, meeting and by a unanimous vote, recommended to approve the rezoning request as presented. The Planning Board voted to support this rezoning petition as it appears to be reasonable and in the public interest based on the information/conditions as presented in the conditional zoning petition (such as the landscape buffer yard along the public streets and adjoining properties), the unique land use proposed and the fact that the location appears to lend itself to the proposed use (a group of solar farms located in close proximity to an existing power station), in conjunction with the attempt to facilitate the efficient and adequate provision of a public requirement (electricity).

Ms. McNeill explained that conditional zoning is site-plan specific; this means that the plans that are presented to Council are legally binding on the land and it must be developed in that manner, even in the event of a property transaction, such as the sale of the property. She said that if Mr. Richter sells the property to someone else, it must still be developed in a manner illustrated in the plan or the property owner/applicant must come back and change those plans through the conditional zoning process. It is legally binding.

Council Member Williams asked what happens if Council rezones it tonight without the bond.

Ms. McNeill replied that she has had discussion with Mr. Richter regarding the concerns of bonding. Mr. Richter will address this concern.

Mr. Richter stated that he was informed earlier today regarding the bonding on the eventual removal of the solar facility. He said he does not have a lot of history on that and has not bonded any solar farms to date; however, that does not mean they have not been bonded in other counties. Mr. Richter said that if Council ultimately decides in the text amendment that they want to do some form of bonding, he would agree to do so on the project. He does not know what that means to them as to the cost or the difficulty of maintaining that bond over a long period of time. He does not know how the cell tower bonding works. He would like to move forward and get Council's approval with the condition, however Council records it. Mr. Richter advised that if Council ultimately requires bonding, then he would comply with that requirement.

Mr. Richter said in conversations with other people that do the development, that if today a solar farm had to be removed, the salvage value of the steel and copper covers the majority of the cost (not all of the cost) to remove the facility. Mr. Richter said that if they were to walk away there were still options: (1) the landowner who inherited those improvements just by way of the lease, could have it removed at very little or no cost; and (2) it would still be a functioning energy generating facility – he could take over the facility and sell the energy as well; there are economic benefits to either removing it or operating it beyond them being there on the property.

- Consider Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit E)

Council Member Gaskins made the motion to approve the ordinance including any references to bonding that may or may not be added.

Attorney Patterson clarified that “with the condition that if Council passes a bonding requirement, they will meet it.” Mr. Gaskins agreed.

Council Member Williams seconded the motion.

Council Member Taylor expressed concern that Mr. Richter is committing to something that he does not know what he is going to get so far as a bonding requirement. He has a problem down the road with Council passing something with the stipulation that he will be in compliance of it and he does not know the commitment financially, that it may be advantageous for him not to come to Sanford. Mr. Taylor said his concern is the fact that Council is passing something without knowing the ramifications of how it is going to affect the individual company; we want good companies here and we want this type of investment but at the same time, we have to be protective of a consumer as well.

Council Member Gaskins said that as the motion is stated, Mr. Richter has the option to not invest but the City still has the option (the way the motion was presented) to either accept and include bonding information or to completely leave it out. So the motion has taken that into consideration.

Council Member Post asked Mr. Downey for clarification that because this is a conditional rezoning request, Council can place conditions on the rezoning which could say you have to have a financial guarantee and an abandonment plan.

Mr. Downey replied that Council needs to keep in mind with conditional rezoning, Council can ask or request these conditions to be placed on it but it is up to Mr. Richter to accept those conditions. The other option Council has is if Mr. Richter does not accept the conditions, Council can turn down the rezoning request.

Attorney Patterson stated that it is important to state in Council's motion because it is part of the approval of the rezoning and since we do not yet have that as a requirement, you would not want the developer to have grandfathered status without it. The motion putting the condition on it and Mr. Richter stating before Council that he would agree to meet that, would satisfy the requirement.

Council Member Taylor asked if there is any reservation at all from Mr. Richter's behalf, based on the language of the motion that has been made.

Mr. Richter replied there is no reservation. If Council approves it tonight, they will not start tomorrow, so there will be time for Council to come to resolution on the amendment. They will quantify what the cost of that is and decide whether it is feasible or not. With that in mind, they will not be making a commitment tomorrow to go forward. They have to know they can build it and then they have to get other people to buy in and approve it. This is part of that step. He said that if they can take this first step, they can keep the process moving and when Council comes back, he could reevaluate it if there is a problem.

Mayor Mann asked counsel if she has the motion written down the way it should be stated. Attorney Patterson replied, to approve the rezoning with the condition that if the Council requires a bond, they will meet it or supply it. Attorney Patterson added that it is the requirement of any statute that when Council looks at rezoning, they have a finding about whether it meets the 2020 Land Use Plan. She asked that this information be added to the ordinance as well.

Ms. McNeill stated that the 2020 Land Use Plan Map identifies this area as "residential agricultural" which denotes lots that are typically 20,000 sf or larger and consist primarily of single-family development and agricultural uses.

Mayor Mann said that we have a motion and a second to consider Amending the Official Zoning Map of the City of Sanford, North Carolina with the condition that if the Council requires a bond, they will meet it or supply it. The motion carried six to one in favor of the motion with Council Member Charles Taylor casting the dissenting vote.

REGULAR AGENDA

Consider Entering Into Agreement with NC DOT for Traffic Review and Inspection of Signals Included in the Streetscape Project – (Exhibit F)

City Engineer Paul Weeks said that this is a revised signals agreement with the NCDOT for the Downtown Streetscape project. Council approved a previous agreement; however, before the DOT

executed the document, they noticed a wording problem. They removed the wording of the E-verify requirement. We have paid the DOT the funds they requested and they are working on the project.

Council Member Sam Gaskins made the motion to approve the agreement. Seconded by Council Member Wyhof, the motion carried unanimously.

Consider a Resolution Supporting the Jordan Lake Partnership and the Triangle Region Water Supply Plan – (Exhibit G)

City Engineer Paul Weeks explained the background behind the Jordan Lake Partnership. In 2007 after the drought, a number of municipalities decided it was time that we came together and collaborated on our water supply plans. Every public water supplier is required to develop a water supply plan which basically outlines how much water you used in the year you are in and how much you plan to use 30 years out; that gives everyone an opportunity to do some future planning. After the drought, it became apparent that we needed to plan as a region because a number of people and municipalities depend on Jordan Lake. So thirteen different public water suppliers came together and these are the users of Jordan Lake and decided that we needed to work up a regional water supply plan instead of a single one. The Jordan Lake Partnership started in 2009 and through a series of meetings, we were able to take our water supply plans and put them together into one. He said there was so much work and collaboration that went on in this process, we received an award (all thirteen municipalities) from the American Planning Association, The North Carolina Chapter; it is the 2014 Marvin Collins Outstanding Planning Award, which is given for outstanding planning. This is a very significant document that all the municipalities are using when they submit to the Department of Environment and Natural Resources.

Council Member Post made the motion to adopt the Resolution Supporting the Jordan Lake Partnership and the Triangle Region Water Supply Plan. Seconded by Council Member Wyhof, the motion carried unanimously.

Consider an Addendum to Extend the Term of the Memorandum of Understanding Supporting the Jordan Lake Partnership – (Exhibit H)

City Engineer Paul Weeks explained that in 2009, when the partnership was formed, it had a termination date of June 30, 2014. The partnership believes that there is an advantage for the partnership to continue to exist and in order for that to happen, all members have to approve this continued existence. The addendum extends the term of the Jordan Lake Partnership until June 30, 2019.

Council Member Gaskins made the motion to approve the Addendum to Extend the Term of the Memorandum of Understanding Supporting the Jordan Lake Partnership. Seconded by Council Member Post, the motion carried unanimously.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2014-2015 (E911) – (Exhibit I)

City Manager Hal Hegwer advised that the ordinance appropriates \$40,794 to purchase a CADD system for the backup 911 Center located at the courthouse. It will link the City's 911 Center to the system that will be located at the Lee County Sheriff's Department as a backup center. The 911 fund is passed through Lee County and the City handles the expenditures because we are the Public Safety Answering Point (PSAP). Lee County will reimburse the City for the expenditures.

Council Member Gaskins made the motion to adopt the Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2014-2015. Seconded by Council Member Buckels, the motion carried unanimously.

Resolution Approving the City of Sanford Fund Balance Policy- (Exhibit J)

Financial Services Director Beth Kelly explained that the resolution approves a formal fund balance policy so that we can take the adopted policy to our presentations to the three rating agencies to receive our general obligation bond credit rating. The City, historically, has had an informal unwritten fund balance policy so this is just formalizing and adopting that policy. The formal policy will provide the rating agencies clarity in our financial strategy and philosophy. Section 1 explains the overview of the definition of what fund balance is and unassigned fund balance; Section 2 states that it is the City of Sanford's policy to strive to maintain an unassigned fund balance in the General Fund at a level sufficient to meet its objectives, will target a 30 percent fund balance available percentage; and at no time shall the unassigned fund balance fall below the 25 percent of the closing year's General Fund operating budget. Unassigned fund balance in excess of the targeted 30 percent may be reappropriated for pay-as-you-go capital or one-time expenses.

Mrs. Kelly stated that the City Council may, from time to time, appropriate fund balance that will reduce unassigned fund balance to an amount lower than the 25 percent policy if there is a declared emergency, or other such global purpose as to protect long-term fiscal security of the City. In those circumstances, the City Council will adopt a plan to restore the unassigned fund balance back to the 30 percent within 36 months from the date of appropriation, or a plan of restoration for a different time amount would be appropriated.

Mrs. Kelly provided Council with a chart (Exhibit J) of the City's historical unassigned fund balance percentages for the last ten years. Council Member Taylor asked what is the impetus behind the 25 number versus a 20 percent number; where did we come up with that number? Mrs. Kelly replied that is what's recommended based on looking at a lot of other units and also, Best Practices Guide from the Governmental Finance Officers Association, discussion with the Local Government Commission and also looking at feedback from the rating agencies from our prior visit.

Council Member Gaskins made the motion to approve the Fund Balance Policy. Seconded by Council Member Post, the motion carried in favor five to one with Council Member Taylor casting the dissenting vote.

OTHER BUSINESS

Council Member Wyhof congratulated Mayor Mann on receiving the Dogwood District Boy Scouts Distinguished Citizen of the Year Award.

Council Member Haire congratulated Mayor Mann and Council Member Post for having one year "under their belt" tonight on the Council. Mr. Haire asked if the bids will be opened on streetscape this coming Thursday. Mr. Hegwer replied yes and you have to have three bids; if not, the project will have to be rebid. Mr. Haire felt we should have some type of public presentation to the Downtown Sanford people, since we have had one with the Jonesboro people.

Council Member Gaskins stated that this coming Friday will be Council Member Williams' birthday.

Council Member Taylor stated that since Council has returned from the National League of Cities Conference in Austin, Texas, he has had the opportunity to meet with Tim Punell, who is an Associate Director of Third Sector Capital Partners. They have gotten a \$1.9 million grant award where they can help with youth development and economic opportunity for disadvantaged. He gave this information to our City Manager and we have a very short timeline to apply for this grant. They are going to have up to ten awardees. Their amount is \$1.9 million and there are seven other partners in it with about an equal amount (probably around \$14 to \$15 million to go after). The deadline is January 16, 2015. We have to declare our intent December 9, 2014. This is something we need to be aware of and the timing. The City Manager has assured him that staff is already looking at it and proceeding with it.

City Attorney Patterson said she received a memo today suggesting that she remind Council Members that as we approach the holiday season, that you are prohibited from accepting gifts from anyone the City does business with or might do business with in the future.

City Manager Hegwer suggested cancelling the Law and Finance Committee meeting on Wednesday, December 10. Several staff members and he will be in New York regarding the bond presentation for the sale of the bonds. He mentioned that the City of Sanford won an award for its participation in the National Night Out Campaign. We placed third in Category 4 of cities who range in the population category of 15,000 to 50,000. We were the highest ranking in all the categories in North Carolina for cities in our state. He thanked everyone for their participation in achieving this award.

Mayor Mann praised all the individuals who sponsored and participated in the Christmas parade. He mentioned there will be a tree lighting at Depot Park on Friday, December 5, at 5:45 P.M.

Mayor Mann said during the Scouting banquet, he took an opportunity to thank scouting for how important it is and mentioned fifteen things we are currently doing in the City and County that should make a big difference in moving the City forward. Looking back on his one-year anniversary, while a lot of things have not been finished, a lot of things have been started. He appreciates the continued hard work of staff and Council.

Mayor Mann said that he enjoyed and learned a lot at the National League of Cities. Mr. Taylor was a great host and it was nice to spend time together at night; we worked hard all day. He sent Council a summary of his take-away notes and he was real encouraged that some of the things the City is doing - other cities are modeling. The big thing he took away from small cities is that it is all about the family. We need to continue to do things outdoors and we are facilitating that with our greenways and walkways. The revitalization policy is going to achieve a lot of goals that other cities are trying to do, being a safe city and keeping your economic development priorities right.

Mayor Mann stated that part of the agenda is to bring about signature neighbors and trying to move forward on housing in Sanford. We have a ground-breaking next week on Cool Springs Road, called Autumn Wood. It is the first development in a while; the developer is going to try and develop 300 lots over the next few years in a price range that will add to the tax base.

Closed Session

City Council Meeting
December 2, 2014

City Attorney Susan Patterson read the motion for Council to go into closed session in accordance with N.C.G.S.143-318.11(a) (1), (4), and (5) to prevent the disclosure of information that is privileged, or confidential pursuant to law; to discuss matters relating to the location or expansion of industries or other business in the area; and to instruct the public body staff or negotiating agents concerning the position to be taken on behalf of the public body in negotiating price, or material terms of a contract or proposed contract, for the acquisition of real property. So moved by Council Member Wyhof and seconded by Council Member Gaskins, the motion carried unanimously.

RETURN TO REGULAR SESSION AND ADJOURNMENT

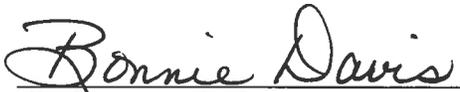
Council Member Taylor made the motion to adjourn the meeting; seconded by Council Member Haire, the motion carried unanimously.

Respectfully Submitted,



T. CHET MANN, MAYOR

ATTEST:



BONNIE DAVIS, CITY CLERK